

PROPERTY TAX ASSESSMENT CHANGES

2017 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill amends property tax provisions related to the assessment of property.

Highlighted Provisions:

This bill:

- ▶ requires the centrally assessed benchmark value to be adjusted for taxable value attributable to a change in assessment that occurs due to a decision made by the State Tax Commission;
- ▶ defines terms, including a bona fide range improvement program;
- ▶ provides that land may not be assessed under the Farmland Assessment Act if the land is:
 - land devoted to the production of solar energy; or
 - a ski area; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

- 59-2-502**, as last amended by Laws of Utah 2005, Chapter 254
- 59-2-503**, as last amended by Laws of Utah 2013, Chapter 322
- 59-2-504**, as last amended by Laws of Utah 2003, Chapter 208
- 59-2-924 (Effective 01/01/17)**, as last amended by Laws of Utah 2016, Chapters 350 and 367

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-2-502** is amended to read:

33 **59-2-502. Definitions.**

34 As used in this part:

35 (1) "Actively devoted to agricultural use" means that the land in agricultural use
36 produces in excess of 50% of the average agricultural production per acre:

37 (a) as determined under Section 59-2-503; and

38 (b) for:

39 (i) the given type of land; and

40 (ii) the given county or area.

41 (2) (a) "Bona fide range improvement program" means a rangeland improvement
42 project that is generally recognized by the grazing or livestock industry to:

43 (i) increase the quality of forage for livestock; and

44 (ii) result in increased livestock production.

45 (b) "Bona fide range improvement program" includes:

46 (i) reseeding;

47 (ii) spraying;

48 (iii) burning;

49 (iv) controlling for weeds or herbs; or

50 (v) using one of the following mechanical methods:

51 (A) chaining;

52 (B) furrowing;

53 (C) terracing;

54 (D) trenching;

55 (E) railing;

56 (F) ripping; or

57 (G) pitting.

58 ~~[(2)]~~ (3) "Conservation easement rollback tax" means the tax imposed under Section
59 59-2-506.5.

60 ~~[(3)]~~ (4) "Identical legal ownership" means legal ownership held by:

61 (a) identical legal parties; or

62 (b) identical legal entities.

63 ~~[(4)]~~ (5) "Land in agricultural use" means:

64 (a) land devoted to the raising of useful plants and animals with a reasonable
65 expectation of profit, including:
66 (i) forages and sod crops;
67 (ii) grains and feed crops;
68 (iii) livestock as defined in Section 59-2-102;
69 (iv) trees and fruits; or
70 (v) vegetables, nursery, floral, and ornamental stock; or
71 (b) land devoted to and meeting the requirements and qualifications for payments or
72 other compensation under a crop-land retirement program with an agency of the state or federal
73 government.

74 ~~[(5)]~~ (6) "Other eligible acreage" means land that is:

75 (a) five or more contiguous acres;
76 (b) eligible for assessment under this part; and
77 (c) (i) located in the same county as land described in Subsection 59-2-503(1)(a); or
78 (ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as
79 provided in Section 59-2-512.

80 ~~[(6)]~~ (7) "Platted" means land in which:

81 (a) parcels of ground are laid out and mapped by their boundaries, course, and extent;
82 and
83 (b) the plat has been approved as provided in Section 10-9a-604 or 17-27a-604.

84 ~~[(7)]~~ (8) "Rollback tax" means the tax imposed under Section 59-2-506.

85 ~~[(8)]~~ (9) "Withdrawn from this part" means that land that has been assessed under this
86 part is no longer assessed under this part or eligible for assessment under this part for any
87 reason including that:

88 (a) an owner voluntarily requests that the land be withdrawn from this part;
89 (b) the land is no longer actively devoted to agricultural use;
90 (c) (i) the land has a change in ownership; and
91 (ii) (A) the new owner fails to apply for assessment under this part as required by
92 Section 59-2-509; or
93 (B) (I) an owner applies for assessment under this part as required by Section
94 59-2-509; and

95 (II) the land does not meet the requirements of this part to be assessed under this part;
96 (d) (i) the legal description of the land changes; and

97 (ii) (A) an owner fails to apply for assessment under this part as required by Section
98 59-2-509; or

99 (B) (I) an owner applies for assessment under this part as required by Section
100 59-2-509; and

101 (II) the land does not meet the requirements of this part to be assessed under this part;

102 (e) if required by the county assessor, the owner of the land:

103 (i) fails to file a new application as provided in Subsection 59-2-508(4); or

104 (ii) fails to file a signed statement as provided in Subsection 59-2-508(4); or

105 (f) except as provided in Section 59-2-503, the land fails to meet a requirement of
106 Section 59-2-503.

107 Section 2. Section **59-2-503** is amended to read:

108 **59-2-503. Qualifications for agricultural use assessment.**

109 (1) For general property tax purposes, land may be assessed on the basis of the value
110 that the land has for agricultural use if the land:

111 (a) is not less than five contiguous acres in area, except that land may be assessed on
112 the basis of the value that the land has for agricultural use:

113 (i) if:

114 (A) the land is devoted to agricultural use in conjunction with other eligible acreage;
115 and

116 (B) the land and the other eligible acreage described in Subsection (1)(a)(i)(A) have
117 identical legal ownership; or

118 (ii) as provided under Subsection (4); and

119 (b) except as provided in Subsection (5) or (6):

120 (i) is actively devoted to agricultural use; and

121 (ii) has been actively devoted to agricultural use for at least two successive years
122 immediately preceding the tax year for which the land is being assessed under this part.

123 (2) In determining whether land is actively devoted to agricultural use, production per
124 acre for a given county or area and a given type of land shall be determined by using the first
125 applicable of the following:

- 126 (a) production levels reported in the current publication of the Utah Agricultural
127 Statistics;
- 128 (b) current crop budgets developed and published by Utah State University; and
129 (c) other acceptable standards of agricultural production designated by the commission
130 by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
131 Act.
- 132 (3) Land may be assessed on the basis of the land's agricultural value if the land:
133 (a) is subject to the privilege tax imposed by Section 59-4-101;
134 (b) is owned by the state or any of the state's political subdivisions; and
135 (c) meets the requirements of Subsection (1).
- 136 (4) Notwithstanding Subsection (1)(a), the commission or a county board of
137 equalization may grant a waiver of the acreage limitation for land upon:
138 (a) appeal by the owner; and
139 (b) submission of proof that:
140 (i) 80% or more of the owner's, purchaser's, or lessee's income is derived from
141 agricultural products produced on the property in question; or
142 (ii) (A) the failure to meet the acreage requirement arose solely as a result of an
143 acquisition by a governmental entity by~~[(+)]~~ eminent domain~~[:]~~ or ~~[(+)]~~ the threat or
144 imminence of an eminent domain proceeding;
145 (B) the land is actively devoted to agricultural use; and
146 (C) no change occurs in the ownership of the land.
- 147 (5) (a) The commission or a county board of equalization may grant a waiver of the
148 requirement that the land is actively devoted to agricultural use for the tax year for which the
149 land is being assessed under this part upon:
150 (i) appeal by the owner; and
151 (ii) submission of proof that:
152 (A) the land was assessed on the basis of agricultural use for at least two years
153 immediately preceding that tax year; and
154 (B) the failure to meet the agricultural production requirements for that tax year was
155 due to no fault or act of the owner, purchaser, or lessee.
156 (b) As used in Subsection (5)(a), "fault" does not include:

157 (i) intentional planting of crops or trees which, because of the maturation period, do
 158 not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production
 159 levels required for land actively devoted to agricultural use; or

160 (ii) implementation of a bona fide range improvement program[;] or crop rotation
 161 program[, ~~or other similar accepted cultural practices which do~~ that does not give the owner,
 162 purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land
 163 actively devoted to agricultural use.

164 (6) Land that otherwise qualifies for assessment under this part qualifies for assessment
 165 under this part in the first year the land resumes being actively devoted to agricultural use if:

166 (a) the land becomes ineligible for assessment under this part only as a result of a split
 167 estate mineral rights owner exercising the right to extract a mineral; and

168 (b) the land qualified for assessment under this part in the year immediately preceding
 169 the year the land became ineligible for assessment under this part only as a result of a split
 170 estate mineral rights owner exercising the right to extract a mineral.

171 (7) Land that otherwise qualifies under Subsection (1) to be assessed on the basis of the
 172 value that the land has for agricultural use does not lose that qualification by becoming subject
 173 to a forest stewardship plan developed under Section 65A-8a-106 under which the land is
 174 subject to a temporary period of limited use or nonuse.

175 Section 3. Section **59-2-504** is amended to read:

176 **59-2-504. Exclusions from designation as agricultural use -- Exception.**

177 (1) As used in this section:

178 (a) "Energy" means electrical, mechanical, or thermal energy.

179 (b) "Land devoted to the production of solar energy" means land on which solar
 180 equipment is placed to produce energy for the purpose of selling the energy to a purchaser.

181 (c) "Platted with surface improvements in place" means that:

182 (i) land is platted; and

183 (ii) all surface improvements necessary for the land to be sold as a lot or a unit are in
 184 place regardless of whether it is the owner of the land that puts the surface improvements in
 185 place, as determined by the legislative body of:

186 (A) the county, if the land is located in an unincorporated area of the county;

187 (B) the city, if the land is located in a city; or

- 188 (C) the town, if the land is located in a town.
- 189 (d) "Ski area" means any area designated by a ski area operator that an individual pays
190 a fee to access for:
- 191 (i) snowboarding;
- 192 (ii) skiing;
- 193 (iii) nordic skiing or snowboarding;
- 194 (iv) freestyle skiing;
- 195 (v) ski jumping;
- 196 (vi) tubing;
- 197 (vii) sledding;
- 198 (viii) snowshoeing; or
- 199 (ix) any other activity.
- 200 (e) "Ski area operator" means those persons, and their agents, officers, employees, or
201 representatives that operate a ski area.
- 202 (f) "Solar equipment" means equipment used to:
- 203 (i) collect solar radiation;
- 204 (ii) convert solar radiation into energy; or
- 205 (iii) store solar radiation or energy.
- 206 (g) "Surface improvement" means:
- 207 (i) a curb;
- 208 (ii) a gutter; or
- 209 (iii) pavement.
- 210 ~~[(1)]~~ (2) Except as provided in Subsection ~~[(2)]~~ (3), land may not be assessed under
211 this part if the land is:
- 212 (a) part of a platted subdivision or planned unit development, with restrictions
213 prohibiting its use for agricultural purposes with surface improvements in place, whether
214 within or without a city; ~~[or]~~
- 215 (b) platted with surface improvements in place that are not an integral part of
216 agricultural use[-];
- 217 (c) land devoted to the production of solar energy; or
- 218 (d) a ski area.

219 ~~[(2)]~~ (3) (a) If land has been platted with surface improvements in place, the land has
 220 been withdrawn from this part, and the owner is not able to transfer title to the platted property,
 221 or continue development of the platted property due to economic circumstances, or some other
 222 reasonable cause, the owner may petition the county assessor for reinstatement under this part
 223 for assessment purposes as land in agricultural use without vacating the subdivision plat.

224 (b) The county assessor may grant the petition for reinstatement described in
 225 Subsection ~~[(2)]~~ (3)(a) if the land is actively devoted to agricultural use.

226 ~~[(3) For purposes of this section:]~~

227 ~~[(a) "platted with surface improvements in place" means that:]~~

228 ~~[(i) land is platted; and]~~

229 ~~[(ii) all surface improvements necessary for the land to be sold as a lot or a unit are in~~
 230 ~~place;]~~

231 ~~[(A) regardless of whether or not it is the owner of the land who puts the surface~~
 232 ~~improvements in place; and]~~

233 ~~[(B) as determined by the:]~~

234 ~~[(F) county legislative body if the land is located in an unincorporated area of the~~
 235 ~~county;]~~

236 ~~[(H) city legislative body if the land is located in a city; or]~~

237 ~~[(HH) town legislative body if the land is located in a town; and]~~

238 ~~[(b) "surface improvement" means:]~~

239 ~~[(i) a curb;]~~

240 ~~[(ii) a gutter; or]~~

241 ~~[(iii) pavement.]~~

242 Section 4. Section **59-2-924 (Effective 01/01/17)** is amended to read:

243 **59-2-924 (Effective 01/01/17). Definitions -- Report of valuation of property to**

244 **county auditor and commission -- Transmittal by auditor to governing bodies --**

245 **Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget**

246 **-- Notice provided by the commission.**

247 (1) As used in this section:

248 (a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with
 249 this chapter.

- 250 (ii) "Ad valorem property tax revenue" does not include:
- 251 (A) interest;
- 252 (B) penalties;
- 253 (C) collections from redemptions; or
- 254 (D) revenue received by a taxing entity from personal property that is semiconductor
- 255 manufacturing equipment assessed by a county assessor in accordance with Part 3, County
- 256 Assessment.
- 257 (b) (i) "Aggregate taxable value of all property taxed" means:
- 258 (A) the aggregate taxable value of all real property a county assessor assesses in
- 259 accordance with Part 3, County Assessment, for the current year;
- 260 (B) the aggregate taxable value of all real and personal property the commission
- 261 assesses in accordance with Part 2, Assessment of Property, for the current year; and
- 262 (C) the aggregate year end taxable value of all personal property a county assessor
- 263 assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls
- 264 of the taxing entity.
- 265 (ii) "Aggregate taxable value of all property taxed" does not include the aggregate year
- 266 end taxable value of personal property that is:
- 267 (A) semiconductor manufacturing equipment assessed by a county assessor in
- 268 accordance with Part 3, County Assessment; and
- 269 (B) contained on the prior year's tax rolls of the taxing entity.
- 270 (c) "Centrally assessed benchmark value" means an amount equal to the highest year
- 271 end taxable value of real and personal property the commission assesses in accordance with
- 272 Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1,
- 273 2015, adjusted for taxable value attributable to:
- 274 (i) an annexation to a taxing entity; ~~or~~
- 275 (ii) an incorrect allocation of taxable value of real or personal property the commission
- 276 assesses in accordance with Part 2, Assessment of Property[-]; or
- 277 (iii) a decision made by the commission under Section 59-2-1007.
- 278 (d) (i) "Centrally assessed new growth" means the greater of:
- 279 (A) zero; or
- 280 (B) the amount calculated by subtracting the centrally assessed benchmark value

281 adjusted for prior year end incremental value from the taxable value of real and personal
282 property the commission assesses in accordance with Part 2, Assessment of Property, for the
283 current year, adjusted for current year incremental value.

284 (ii) "Centrally assessed new growth" does not include a change in value as a result of a
285 change in the method of apportioning the value prescribed by the Legislature, a court, or the
286 commission in an administrative rule or administrative order.

287 (e) "Certified tax rate" means a tax rate that will provide the same ad valorem property
288 tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

289 (f) "Eligible new growth" means the greater of:

290 (i) zero; or

291 (ii) the sum of:

292 (A) locally assessed new growth;

293 (B) centrally assessed new growth; and

294 (C) project area new growth.

295 (g) "Incremental value" means the same as that term is defined in Section 17C-1-102.

296 (h) (i) "Locally assessed new growth" means the greater of:

297 (A) zero; or

298 (B) the amount calculated by subtracting the year end taxable value of real property the
299 county assessor assesses in accordance with Part 3, County Assessment, for the previous year,
300 adjusted for prior year end incremental value from the taxable value of real property the county
301 assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted
302 for current year incremental value.

303 (ii) "Locally assessed new growth" does not include a change in:

304 (A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or
305 another adjustment; or

306 (B) assessed value based on whether a property is allowed a residential exemption for a
307 primary residence under Section 59-2-103.

308 (i) "Project area" means the same as that term is defined in Section 17C-1-102.

309 (j) "Project area new growth" means an amount equal to the incremental value that is
310 no longer provided to an agency as tax increment.

311 (2) Before June 1 of each year, the county assessor of each county shall deliver to the

312 county auditor and the commission the following statements:

313 (a) a statement containing the aggregate valuation of all taxable real property a county
314 assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

315 (b) a statement containing the taxable value of all personal property a county assessor
316 assesses in accordance with Part 3, County Assessment, from the prior year end values.

317 (3) The county auditor shall, on or before June 8, transmit to the governing body of
318 each taxing entity:

319 (a) the statements described in Subsections (2)(a) and (b);

320 (b) an estimate of the revenue from personal property;

321 (c) the certified tax rate; and

322 (d) all forms necessary to submit a tax levy request.

323 (4) (a) Except as otherwise provided in this section, the certified tax rate shall be
324 calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the
325 prior year by the amount calculated under Subsection (4)(b).

326 (b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall
327 calculate an amount as follows:

328 (i) calculate for the taxing entity the difference between:

329 (A) the aggregate taxable value of all property taxed; and

330 (B) any adjustments for current year incremental value;

331 (ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount
332 determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the
333 average of the percentage net change in the value of taxable property for the equalization
334 period for the three calendar years immediately preceding the current calendar year;

335 (iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product
336 of:

337 (A) the amount calculated under Subsection (4)(b)(ii); and

338 (B) the percentage of property taxes collected for the five calendar years immediately
339 preceding the current calendar year; and

340 (iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount
341 determined by subtracting eligible new growth from the amount calculated under Subsection
342 (4)(b)(iii).

343 (5) A certified tax rate for a taxing entity described in this Subsection (5) shall be
344 calculated as follows:

345 (a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax
346 rate is zero;

347 (b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

348 (i) in a county of the first, second, or third class, the levy imposed for municipal-type
349 services under Sections 17-34-1 and 17-36-9; and

350 (ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
351 purposes and such other levies imposed solely for the municipal-type services identified in
352 Section 17-34-1 and Subsection 17-36-3(22); and

353 (c) for debt service voted on by the public, the certified tax rate is the actual levy
354 imposed by that section, except that a certified tax rate for the following levies shall be
355 calculated in accordance with Section 59-2-913 and this section:

356 (i) a school levy provided for under Section 53A-16-113, 53A-17a-133, or
357 53A-17a-164; and

358 (ii) a levy to pay for the costs of state legislative mandates or judicial or administrative
359 orders under Section 59-2-1602.

360 (6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be
361 imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more
362 eligible judgments.

363 (b) The ad valorem property tax revenue generated by a judgment levy described in
364 Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax
365 rate.

366 (7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

367 (i) the taxable value of real property:

368 (A) the county assessor assesses in accordance with Part 3, County Assessment; and

369 (B) contained on the assessment roll;

370 (ii) the year end taxable value of personal property:

371 (A) a county assessor assesses in accordance with Part 3, County Assessment; and

372 (B) contained on the prior year's assessment roll; and

373 (iii) the taxable value of real and personal property the commission assesses in

374 accordance with Part 2, Assessment of Property.

375 (b) For purposes of Subsection (7)(a), taxable value does not include eligible new
376 growth.

377 (8) (a) On or before June 22, a taxing entity shall annually adopt a tentative budget.

378 (b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall
379 notify the county auditor of:

380 (i) the taxing entity's intent to exceed the certified tax rate; and

381 (ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

382 (c) The county auditor shall notify property owners of any intent to levy a tax rate that
383 exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

384 (9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through
385 electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim
386 Committee if:

387 (i) the amount calculated under Subsection (9)(b) is 10% or more of the year end
388 taxable value of the real and personal property the commission assesses in accordance with
389 Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental
390 value; and

391 (ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end
392 taxable value of the real and personal property of a taxpayer the commission assesses in
393 accordance with Part 2, Assessment of Property, for the previous year.

394 (b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by
395 subtracting the taxable value of real and personal property the commission assesses in
396 accordance with Part 2, Assessment of Property, for the current year, adjusted for current year
397 incremental value, from the year end taxable value of the real and personal property the
398 commission assesses in accordance with Part 2, Assessment of Property, for the previous year,
399 adjusted for prior year end incremental value.

400 (c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by
401 subtracting the total taxable value of real and personal property of a taxpayer the commission
402 assesses in accordance with Part 2, Assessment of Property, for the current year, from the total
403 year end taxable value of the real and personal property of a taxpayer the commission assesses
404 in accordance with Part 2, Assessment of Property, for the previous year.

405 (d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet
406 the requirement under Subsection (9)(a)(ii).

407 Section 5. **Retrospective operation.**

408 This bill has retrospective operation to January 1, 2017.